

Part III - Administrative, Procedural, and Miscellaneous

Notice 2005-82

PURPOSE

This notice under section 7508A postpones the deadlines for certain acts performed by the Internal Revenue Service (IRS) with respect to certain taxpayers affected by Hurricane Rita. In response to Hurricane Rita, the President issued disaster declarations on September 23, 2005, covering Texas and Louisiana. The Presidential declarations authorized, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206 (Stafford Act), the Federal Emergency Management Agency (FEMA) to provide Individual Assistance, Public Assistance, and assistance under the Hazard Mitigation Grant Program to counties and parishes in each state. Under that authority, FEMA determined that certain counties and parishes within those states were eligible for both Individual Assistance and Public Assistance, that all counties in Texas and all parishes in Louisiana were eligible for Public Assistance, and that all counties and parishes could apply for assistance under the Hazard Mitigation Grant Program.

By News Release IR-2005-110 of September 26, 2005, the IRS granted relief for taxpayers affected by Hurricane Rita. News Release IR-2005-110 provided that all

counties and parishes in Texas and Louisiana constitute a "covered disaster area" within the meaning of § 301.7508A-1(d)(2), of the Procedure & Administration Regulations. Further, News Release IR-2005-110 provided that taxpayers affected by the disaster will have until February 28, 2006, to file tax returns and submit payments. In addition, News Release IR-2005-110 provided affected taxpayers until February 28, 2006, to perform the acts listed in section 301.7508A-1(c)(1) and Rev. Proc. 2005-27, 2005-20 I.R.B. 1050 (May 16, 2005).

BACKGROUND

Section 7508A provides the Secretary with authority to postpone the time for performing certain acts under the internal revenue laws for a taxpayer affected by a Presidentially declared disaster as defined in section 1033(h)(3). Pursuant to section 7508A(a), a period of up to one year may be disregarded in determining whether the performance of certain acts by affected taxpayers is timely under the internal revenue laws. Section 7508A(a)(1) includes the acts listed in section 7508(a) as those that may be postponed. See also § 301.7508A-1(c)(1). Section 7508(a) and § 301.7508A-1(c)(1) include a number of acts performed by taxpayers for which section 7508A relief may apply. These include, but are not limited to: the filing of certain tax returns; the payment of certain taxes; the filing of a Tax Court petition; the filing of a claim for credit or refund of tax; and the bringing of a lawsuit upon a claim for credit or refund of tax.

Section 301.7508A-1(d)(1) describes several types of "affected taxpayers" eligible for certain postponements of up to one year. These affected taxpayers include any individual whose principal residence, and any business entity whose principal place

of business, is located in the covered disaster area; any individual who is a relief worker affiliated with a recognized government or philanthropic organization and who is assisting in the covered disaster area; any individual whose principal residence, and any business entity whose principal place of business, is not located in the covered disaster area, but whose records necessary to meet a filing or payment deadline are maintained in the covered disaster area; any estate or trust that has tax records necessary to meet a filing or payment deadline in the covered disaster area; and any spouse of an affected taxpayer, solely with regard to a joint return of the husband and wife.

Additionally, under section 301.7508A-1(d)(1)(vii), the IRS may determine that any other person is affected by a Presidentially declared disaster and is therefore eligible for relief. Accordingly, as stated in News Release IR-2005-110, the IRS has determined that the following persons are also affected by Hurricane Rita and its aftermath: (1) all workers assisting in the relief activities in the covered disaster area, regardless of whether they are affiliated with recognized government or philanthropic organizations; (2) any individual whose principal residence, and any business entity whose principal place of business, is not located in the covered disaster area, but whose tax professional/practitioner's office is located in the covered disaster area; and (3) individuals, visiting the covered disaster area, who were killed or injured as a result of Hurricane Rita and its aftermath. For purposes of (3) above, the estate of an individual visiting the covered disaster area who was killed as a result of the hurricane is also considered to be an affected taxpayer. See IR-2005-110.

ACTS PERFORMED BY THE GOVERNMENT

In News Release IR-2005-110, the IRS granted affected taxpayers additional time until February 28, 2006, to file tax returns, to submit payments, and to perform certain time-sensitive acts listed in section 301.7508A-1(c)(1) and in Rev. Proc. 2005-27. In consideration of the additional time that affected taxpayers have been granted to perform certain acts, this Notice extends the period for the government to take certain actions. Under the authority of section 7508A(a)(1) and section 301.7508A-1(c)(2), for affected taxpayers covered by News Release IR-2005-110, this Notice provides a postponement until February 28, 2006, under section 7508A for the following government acts if the last date for performance of the act is on or after November 7, 2005, and on or before February 28, 2006: making an assessment of any tax; issuing a statutory notice of deficiency; allowing a credit or refund of any tax; collecting by the Secretary, by levy or otherwise, the amount of any liability in respect of any tax; bringing suit by the United States, or any officer on its behalf, in respect of any tax liability; returning property under section 6343; discharging an executor from personal liability for a decedent's taxes under section 6905; and issuing a notice of Final Partnership Administrative Adjustment (FPAA) to the Tax Matters Partner under section 6223 with respect to the tax attributable to the partnership items of partners of any partnership subject to TEFRA proceedings that is an affected taxpayer.

Documents maintained by the IRS within the covered disaster area may have been lost or destroyed as a result of Hurricane Rita, or remain in buildings that are inaccessible. The destruction, loss or inaccessibility of these documents will materially

interfere with the IRS's ability to timely administer the internal revenue laws with respect to certain taxpayers. The taxpayers to whom these records relate are "affected taxpayers" for the limited purposes set forth in this paragraph. In these cases, a postponement until February 28, 2006, is provided under section 7508A for the following government acts if the last date for performance of the act is on or after November 7, 2005, and on or before February 28, 2006: making an assessment of any tax; issuing a statutory notice of deficiency; allowing a credit or refund of any tax; collecting by the Secretary, by levy or otherwise, the amount of any liability in respect of any tax; bringing suit by the United States, or any office on its behalf, in respect of any tax liability; returning property under section 6343; the discharge of an executor from personal liability for a decedent's taxes under section 6905, and issuing an FPAA under section 6223 as described above. The disregarding of time under section 7508A results in a deadline of February 28, 2006, not in a suspension of a period. The IRS will notify as soon as practicable any affected taxpayers, as defined under this paragraph, of the government act or acts that will be postponed.

DRAFTING INFORMATION

The principal author of this notice is Dillon Taylor of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). For further information regarding this notice, you may call (202) 622-4940 (not a toll-free call).